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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,507	09/16/2003	Ken Motush	5009.076	4645
7590 01/12/2005 Levisohn, Berger & Langsam, LLP 19th Floor 805 Third Avenue New York, NY 10022			EXAMINER ZEC, FILIP	
			ART UNIT 3744	PAPER NUMBER

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/664,507

Applicant(s)

MOTUSH ET AL.

Examiner

Filip Zec

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13, 14, 18-20 and 22-26 is/are rejected.
- 7) ☒ Claim(s) 12, 15-17 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings were received on 10/12/2004. These drawings are acceptable.

### *Response to Arguments*

2. Applicant's arguments, see pages 2-5, filed 10/12/2004, with respect to the rejection(s) of claim(s) 1-8, 11-13 and 15-23 under 35 USC 103 (a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection of claims 1-8, 11, 13, 18-20 and 22-24 is made under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,609,385 to Ferris et al., in view of U.S. Patent 4,338,793 to O'Hern and U.S. Patent 5,358,009 to Campbell. As such, this Office Action is being made non-final to afford the applicants the opportunity to respond to the new grounds of rejection.

Also, in response to applicant's argument that U.S. Patent 4,338,793 to O'Hern is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, O'Hern states that "*the present invention generally relates to an adapter to be associated with a closed refrigerating system and more specifically an adapter to enable a duplicate access valve to be associated with the refrigerating equipment so that access may be more easily gained to the*

*refrigerating system with the adapter including an abutment which actuates the existing access valve on the refrigerating equipment*" (col 1, lines 7-14), which clearly relates to an air-conditioning system for an automobile.

Finally, in response to applicant's arguments, the recitation that device is used for servicing an automobile air conditioner using aerosol has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8, 11, 13, 18-20 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,609,385 to Ferris et al., in view of U.S. Patent 4,338,793 to O'Hern and U.S. Patent 5,358,009 to Campbell. Ferris discloses applicant's basic inventive concept, a refrigerant charging/pressure testing hose assembly (FIG. 1), comprising a pressurized refrigerant container (14) having a shutoff valve (24), said valve being controlled via a

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removable (38) actuator (34) and containing a flow controlling stem (36a); a hose (20), having a tee fitting and a check valve (28) disposed in said hose, said fitting being connected to a pressure gauge (26), said hose being connected on the other end to a service port (22) of an air conditioner, wherein the user could measure the pressure in the air-conditioning system and then recharge the system without having to disconnect the hose from the port due to the check valve being biased to keep the hose clear of the pressurized refrigerant (col 1, lines 60-67; col 2, lines 1-26), substantially as claimed with the exception of stating the specific use of a tee fitting, a check valve located inside of said tee fitting at a proximal end of the refrigerant supply side, said valve comprising a spring-biased stopper and the permanent nature of the connection between the container, the hose and the actuator. O'Hern shows a tee fitting (42, FIG. 2), a spring-biased stopper (22, FIG. 2) which closes a valve (col 1, line 20) and the permanent nature of the connection between the container, the hose and the actuator to be old in the vehicle air-condition recharging art (abstract). Campbell shows a tee fitting (345, FIG. 15), having a check valve inside of said tee fitting (373) biased to keep the fluid from coming out and only to come in when achieving certain pressure, while being able to measure (381, FIG. 4) the pressure inside of the system (41, FIG. 15) to be old in the refrigeration art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of O'Hern and Campbell to modify the system of Ferris, by having a tee fitting, a check valve located inside of said tee fitting, at a proximal end of the refrigerant supply side, a spring-biased stopper which closes said valve and the permanent nature of the connection between the container, the hose and the actuator in order to have the recharging system permanently installed in a refrigeration apparatus, so that it will be available to service personnel when there is a

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necessity to service the particular refrigerating system without the service personnel having to attach a service manifold or other rather sophisticated structure which must be carried to the site of the refrigeration system each time service operations are to be performed (O'Hern; col 2, lines 1-10). It also improves the safety of the operation since there will be very little, if any, escape of refrigerant since the orientation of the abutment is such that connection of the adapter to the access valve fitting will be at least partially complete before the access valve is opened (O'Hern; col 2, lines 11-18). Finally, it improves the efficiency of the system to have a tee-connector and a check valve integral to the tee connector, instead of two separate elements (Campbell; col 2, lines 25-30).

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,609,385 to Ferris et al., in view of U.S. Patent 4,338,793 to O'Hern and U.S. Patent 5,358,009 to Campbell as applied to claim 1 above, and further in view of U.S. Patent 6,089,032 to Trachtenberg. Ferris in view of O'Hern and Campbell discloses applicant's basic inventive concept, a refrigerant charging/pressure testing hose assembly, comprising a pressurized refrigerant container having a shutoff valve, said valve being controlled via a removable/permanent actuator and containing a flow controlling stem; a hose permanently/removably attached to the actuator, having a tee fitting and a check valve disposed in said hose, said fitting being connected to a pressure gauge, said hose being connected on the other end to a service port of an air conditioner, wherein the user could measure the pressure in the A/C and then recharge the system without having to disconnect the hose from the port due to the check valve, located inside of said tee connector, being biased to keep the hose clear of the pressurized refrigerant, substantially as claimed with the exception of stating the specific use of

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an aerosol container, which comprises a valve stem. Trachtenberg shows the use of an aerosol container (col 2, lines 9-23) having a valve stem, (between valve 22 and container 30, FIG. 2) to be old in the vehicle A/C recharging art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Trachtenberg to modify the system of Ferris in view of O'Hern and Campbell, by having an aerosol in the pressurized container in order to retrofit an R-12 system into an R-134a system more easily than by using a mechanical oil injector and to add some refrigerant to the air conditioner while the air conditioner is being retrofitted to use R-134, thereby saving time and refrigerant (col 2, lines 9-23).

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,609,385 to Ferris et al., in view of U.S. Patent 4,338,793 to O'Hern and U.S. Patent 5,358,009 to Campbell as applied to claim 1 above, and further in view of U.S. Patent 6,089,032 to Trachtenberg as applied to claim 9 above, and still further in view of U.S. Patent 6,385,986 to Ferris et al. Ferris ('385) in view of O'Hern and Campbell, and further in view of Trachtenberg discloses applicant's basic inventive concept, a refrigerant charging/pressure testing hose assembly, comprising a pressurized refrigerant/aerosol container having a shutoff valve, said valve being controlled via a removable/permanent actuator and containing a flow controlling stem; a hose permanently/removably attached to the actuator, having a tee fitting and a check valve disposed in said hose, said fitting being connected to a pressure gauge, said hose being connected on the other end to a service port of an air conditioner, wherein the user could measure the pressure in the A/C and then recharge the system without having to disconnect the hose from the port thanks to the check valve, located inside of said tee connector, being biased to keep the

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hose clear of the pressurized refrigerant, substantially as claimed with the exception of stating the specific use of a press-fittable housing for the actuator, comprising a cantilevered button, allowing the fluid flow path between a container and an attached hose. Ferris ('986) shows a press-fittable housing (114, FIG. 5; col 7, lines 65-67) for the actuator (100, FIG. 5), comprising a cantilevered button (102, FIG. 5), allowing the fluid flow path (12) between a container (14a, FIG. 5) and an attached hose (10a, FIG. 5) to be old in the A/C recharging art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Ferris ('986) to modify the system of Ferris ('385) in view of O'Hern and Campbell, further in view of Trachtenberg by having a press-fittable housing for the actuator, comprising a cantilevered button, allowing the fluid flow path between a container and an attached hose in order to secure the connection and prevent any leaks.

7. Claims 14, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,609,385 to Ferris et al., in view of U.S. Patent 4,338,793 to O'Hern and U.S. Patent 5,358,009 to Campbell as applied to claims 13 and 24 above, and further in view of U.S. Patent 6,089,032 to Trachtenberg and U.S. Patent 6,385,986 to Ferris et al. Ferris ('385) in view of O'Hern and Campbell discloses applicant's basic inventive concept, a refrigerant charging/pressure testing hose assembly, comprising a pressurized refrigerant container having a shutoff valve, said valve being controlled via a removable/permanent actuator and containing a flow controlling stem; a hose permanently/removably attached to the actuator, having a tee fitting and a check valve disposed in said hose, said fitting being connected to a pressure gauge, said hose being connected on the other end to a service port of an air conditioner, wherein the user could measure the pressure in the A/C and then recharge the system without having to



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disconnect the hose from the port due to the check valve, located inside of said tee connector, being biased to keep the hose clear of the pressurized refrigerant, substantially as claimed with the exception of stating that the pressurized container is an aerosol container and the specific use of a press-fittable housing for the actuator, comprising a cantilevered button, allowing the fluid flow path between a container and an attached hose. Trachtenberg shows the use of an aerosol container (col 2, lines 9-23) having a valve stem, (between valve 22 and container 30, FIG. 2) to be old in the vehicle A/C recharging art. Ferris ('986) shows a press-fittable housing (114, FIG. 5; col 7, lines 65-67) for the actuator (100, FIG. 5), comprising a cantilevered button (102, FIG. 5), allowing the fluid flow path (12) between a container (14a, FIG. 5) and an attached hose (10a, FIG. 5) to be old in the A/C recharging art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Ferris ('986) and Trachtenberg to modify the system of Ferris ('385) in view of O'Hern and Campbell, by having a press-fittable housing for the actuator, comprising a cantilevered button, allowing the fluid flow path between a pressurized aerosol container and an attached hose in order to secure the connection and prevent any leaks.

***Allowable Subject Matter***

8. Claims 12, 15-17 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,439,022 to Summers, Daniel A. et al. teaches a Lavage valve.

U.S. Patent 6,209,562 to Shaw, Jimmie B. teaches a valve assembly, pressure testing apparatus and testing method for propane tank system.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Filip Zec whose telephone number is (571) 272-4815. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (571) 272-4808. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Filip Zec  
Examiner  
Art Unit 3744

  
**CHERYL TYLER**  
SUPERVISORY PATENT EXAMINER

FZ